

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Miyano Machinery USA Inc.,)	
)	
Plaintiff,)	
)	Civil Action No. 08 C 526
v.)	
)	Hon. Virginia Kendall
MiyanoHitec Machinery, Inc.,)	
Thomas ("Tom") Miyano, a/k/a)	Magistrate Judge Nolan
Toshiharu Miyano and)	
Steven Miyano, a/k/a)	
Shigemori Miyano,)	
)	JURY TRIAL DEMANDED
<u>Defendants.</u>)	
MiyanoHitec Machinery, Inc.,)	
Thomas ("Tom") Miyano, a/k/a)	
Toshiharu Miyano and)	
Steven Miyano, a/k/a)	
Shigemori Miyano,)	
)	
Counterclaimants,)	
)	
v.)	
)	
Miyano Machinery, Inc. and)	
Miyano Machinery USA Inc.,)	
)	
Counterdefendants.)	

MOTION FOR LEAVE TO FILE INSTANTER BRIEF IN EXCESS OF 30 PAGES

Defendants MiyanoHitec Machinery, Inc., Thomas ("Tom") Miyano, and Steven Miyano ("Defendants") respectfully move this Court for an Order granting it leave to file its Memorandum in Response to Plaintiff's Motion For Preliminary Injunction, which exceeds 30 pages. In support thereof, the Defendants state as follows:

1. On February 7, 2008 this Court granted Plaintiff Miyano Machinery USA Inc.'s ("MMU" or "Plaintiff") Motion for Leave to File Brief in Excess of the Page Limit, allowing the

parties to file briefs to 30 pages. The Court stated that the Defendants' Response may "exceed the page limit, not to exceed 30 pages." Doc. 22).

2. In MMU's Motion to file a brief in excess of the page limit, MMU acknowledged that it must demonstrate "for each of its marks that the mark is protectable and that there is likelihood of confusion or that the unauthorized use of the mark is likely to cause confusion, mistake, or deception." (Doc. 17).

3. MMU claims ownership of five trademarks and has asserted at least three of those marks against Defendants in its Motion for Preliminary Injunction (doc. 23). MMU has also alleged trade name infringement. *Id.* The trademark infringement and unfair competition analysis for each of MMU's asserted marks considers multiple factors, requiring significant factual and legal analysis. Furthermore, the legal analysis for granting or denying a preliminary injunction also considers multiple factors.

4. Defendants must set forth facts and supporting case law to rebut and challenge the issues raised in MMU's Motion for Preliminary Injunction so that the Court may be fully informed to make a ruling.

5. Contemporaneously with this Motion, Defendants are filing its Memorandum in Response to Plaintiff's Motion for Preliminary Injunction which exceeds 30 pages.

WHEREFORE, Defendants respectfully request that this Court grant its Motion for leave to file its Memorandum in Response to Plaintiff's Motion for Preliminary Injunction in excess of 30 pages and the accompanying exhibits, declarations and appendix referenced therein.

DATED: June 6, 2008

Respectfully submitted,

/s/ Geoffrey A. Baker

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed via the Court's ECF system and thus also sent by email on June 6, 2008 to the following:

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June 6, 2008

/s/Geoffrey A. Baker